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VIA MESSENGER

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COMMISSION
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OFFICE OF GENERAL
COUNSEL

Re: MUR 6874

Dear Mr. Jordan:

We write as counsel to Senator Mary Landrieu, Friends of Mary Landrieu, Inc. and Nancy Marsiglia, Treasurer of Friends of Mary Landrieu, Inc. (collectively, "Respondents") in response to the complaint filed with the Federal Election Commission (the "FEC" or "Commission") in the above-referenced matter ("the Complaint"). Because the Complaint fails to allege a violation of the Federal Election Campaign Act of 1971, as amended ("the Act"), the Commission should dismiss it.

A valid complaint must "describe a violation of a statute or regulation over which the Commission has jurisdiction ..." 11 C.F.R. § 111.4(d)(3). Here, the Complaint references a letter written by counsel to the Senate Select Committee on Ethics regarding a review of Senator Landrieu's use of official funds for private charter flights from February 6, 2002 until the present. Relying on this letter, the Complaint claims that during this time period "U.S. government funds were used to pay for political and fundraising activities" in the form of transportation expenses, and alleges that Respondents violated the Act by failing "to pay for and report" those expenses. Complaint ¶¶ 1, 3.

However, the Act requires reportable expenditures to be "made by any person." 52 U.S.C. § 30101(9)(A)(i). It defines a "person" expressly to *exclude* "the Federal Government or any authority of the Federal Government." *Id.* § 30101(11). Therefore, the Complaint alleges no expenditure that Respondents could have unlawfully failed to report under the Act. As such, the Commission should dismiss the Complaint, just as it has dismissed others identically premised on claims of federal government-paid travel. *See* ADR 221 (rejecting complaint that federal government funds were used to pay for campaign travel). *See also* ADR 229 (rejecting complaint that Congressional staff, email and communications were used to promote a candidate's campaign).

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Moreover, as explained in the letter and accompanying spreadsheet sent by counsel to the Senate Select Committee on Ethics, Respondents have already identified and corrected the circumstances that gave rise to the Complaint. After thorough review by counsel, Respondents fully reimbursed the Federal Government for Friends of Mary Landrieu's appropriate pro-rated share of each and every transportation related expenditure referenced by the Complaint.¹

Finally, the Complaint makes reference to "travel related activities" of Senator Landrieu and Friends of Mary Landrieu prior to February 6, 2002 and requests that the Commission conduct a review of these activities. Complaint ¶ 7; Complaint at 4. However, the Complaint fails to allege a single fact that would provide a reasonable basis to believe a violation of the Act occurred during this time period, which in any event is well beyond the five-year limitations period.²

Accordingly, the Complaint fails to state a violation of the Act or provide any basis for further inquiry by the Commission. The Commission should close the file and take no further action.

Very truly yours,



Marc E. Elias
Brian G. Svoboda

¹ Note that for the December 2, 2004 charter flight Friends of Mary Landrieu reimbursed the Federal Government for the full cost of the invoice as the appropriate pro-rated share of the trip could not be determined.

² See 28 U.S.C. § 2462; *Fed. Election Comm'n v. Williams*, 104 F.3d 237, 240 (9th Cir. 1996).